

National Labor Relations Board
OFFICE OF THE GENERAL COUNSEL
Advice Memorandum

DATE: March 10, 1997

TO: B. Allan Benson, Regional Director, Region 27

FROM: Barry J. Kearney, Associate General Counsel, Division of Advice

SUBJECT: Alliance Francaise, Case 27-CA-14974

260-3360-3300

This case was submitted for advice as to whether the revenues of entities affiliated with the Employer may be considered in determining whether the Employer satisfies one of the Board's discretionary jurisdictional standards.⁽¹⁾

The Region is authorized to dismiss this charge, absent withdrawal, since the Employer's own revenues do not meet any of the Board's discretionary jurisdictional standards and the Employer, an affiliate of a Federation of similar entities operating French language schools and presenting French cultural events, is not a single or joint employer with the Federation and its other affiliates. Even as to wholly owned subsidiaries of a common entity,

While the Board may treat separate corporations as one employer for jurisdictional purposes, it does so only when it appears that they are highly integrated with respect to ownership and operations. In making such a determination, the Board considers relevant such indicia of identity as (1) interrelationship of operations, (2) centralized control of labor relations, (3) common management, (4) common ownership or financial control, and (5) representation to the public as a single integrated enterprise, although no one of these factors is controlling.⁽²⁾

There is no evidence that any entities involved here share officers, directors, management or supervision, have a common labor relations policy, or interchange personnel among themselves. In these circumstances, the facts that the Federation provides "cultural offerings" to the Employer and other "chapters"; the services of the Employer's "Professeur Detache" and those of 8 other chapters, paid for by a separate French company, are provided through the Federation but are under the exclusive control and direction of the chapter for which they work; and the Federation and chapters arguably present themselves as an integrated enterprise in the Federation's newsletter, which is not generally available or publicized except among the affiliates and their employees, are insufficient to establish single or joint employer status.

B.J.K.

¹ The Region has determined that the Employer's annual gross revenues amount to only about \$150,000, which fails to meet the Board's standard for retail establishments.

² Riverside Motor Inn, 199 NLRB 1033, 1034 (1972), quoting Operating Engineers Local 428 (See Bee Matic), 169 NLRB 184, 185 (1968) (footnotes omitted). See also Standard Brands Paint Co., 322 NLRB No. 156, slip op. at 1-2 (1997); Pussycat Theater, 220 NLRB 295, 297 (1975).